

A RESOLUTION

09-R-_____

BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF BERTHA DARDEN AND ROBERT DARDEN V. CITY OF ATLANTA, GEORGIA, CIVIL ACTION FILE NO. 2008-CV-158049, FULTON SUPERIOR COURT, IN THE AMOUNT OF \$95,000.00; AUTHORIZING SAID PAYMENT TO BE PAID FROM FUND 1001 (GENERAL FUND) CENTER NUMBER 200101 (NON DEPARTMENTAL) ACCOUNT 5212005 (LITIGATION EXPENSES) AND 1512000 (FUNCTIONAL ACTIVITY) AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, *Bertha Darden and Robert Darden vs. City of Atlanta* is a case in which the Plaintiffs, Bertha and Robert Darden, filed a complaint against the City of Atlanta alleging damages and nuisance;

WHEREAS, Plaintiffs allege that their property sustained damages as a result of storm water runoff onto their property;

WHEREAS, Plaintiffs allege that due to failure and inadequacies of the City of Atlanta's storm water drainage system, rainfall frequently results in significant flooding of Bertha and Robert Darden's home with storm water runoff;

WHEREAS, the City Attorney has done extensive review of the facts and the law and has determined that the City's potential financial exposure in defending Plaintiff's claims is in excess of the settlement amount;

WHEREAS, Plaintiffs have agreed to accept \$95,000.00 in full settlement of all claims against the City of Atlanta including interest and attorney's fees;

WHEREAS, the City Attorney considers it to be in the best interest of the City to pay the amount of \$95,000.00 to settle all claims against the City of Atlanta.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby resolves as follows:

SECTION 1 The City Attorney is hereby authorized to settle and execute all documents in the case of *Bertha Darden and Robert Darden vs. City of Atlanta*, in the amount of Ninety-Five Thousand Dollars (\$95,000.00).

SECTION 2 The Chief Financial Officer is authorized to pay the amount of Ninety-Five Thousand Dollars (\$95,000.00) to Bertha Darden and Robert Darden. Said payment is to be charged, paid and issued from Fund 1001 (General Fund) Center Number 200101 (Non Departmental) Account 5212005 (Litigation Expenses) and 1512000 (Functional Activity) and made payable to *Martin & Jones, as attorneys for Bertha Darden and Robert Darden*, 3353 Peachtree Road, Suite 510, Atlanta, Georgia 30326. Such payment shall be in full consideration of the dismissal of all claims against the City of Atlanta, and its current and former officers and employees.